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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-620**

12 **ERLINDA ATIENZA ABRANTES, R.N.**
13 **23835 Spring Branch Court**
14 **Murrieta, CA 92562**

ACCUSATION

15 **Registered Nurse License No. 424649**

16 **Respondent.**

17
18 **Complainant alleges:**

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs (Board).

23 2. On or about April 30, 1988, the Board of Registered Nursing issued Registered Nurse
24 License Number 424649 to Erlinda Atienza Abrantes (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein, and will
26 expire on January 31, 2012, unless renewed.
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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

" "

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

" "

6. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

REGULATORY JURISDICTION

7. California Code of Regulations (Regulation), title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single

1 situation which the nurse knew, or should have known, could have jeopardized the client's health
2 or life."

3 8. California Code of Regulations (Regulation), title 16, section 1443, states:

4 "As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the
5 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
6 exercised by a competent registered nurse as described in Section 1443.5."

7 **FIRST CAUSE FOR DISCIPLINE**

8 (Unprofessional Conduct - Gross Negligence and/or Incompetence)

9 9. Respondent is subject to disciplinary action under section 2761(a)(1) and Regulations
10 1442 and 1443, in that she was grossly negligent and/or incompetent. The circumstances are as
11 follows:

12 10. Respondent was employed as a Registered Nurse for the Department of Mental
13 Health, Metropolitan State Hospital, Norwalk, California. On or about August 4, 2007,
14 Respondent was the Relief AM Shift Lead. At approximately 9 a.m., Patient D.S. reported to
15 Respondent that he was pushed down by an individual and was having pain in his right leg.
16 Respondent was asked by C.B., the Senior Psychiatric Technician, if she was going to do an
17 assessment and other necessary documentation of the incident. Respondent indicated that she
18 was.

19 11. When C.B. returned to the unit at approximately 2 p.m., she discovered that the
20 Special Incident Report and pain assessment was not completed by Respondent, nor had
21 Respondent delegated these duties to another registered nurse. In fact, F.M., a psychiatric
22 technician assistant, had to personally summon the doctor because Respondent did not complete
23 her responsibilities. C.B. then instructed Respondent again to complete the Special Incident
24 Report and pain assessment.

25 12. An x-ray of Patient D.S. was completed at approximately 5 p.m., and revealed that
26 the patient had a fractured right hip. He was transported to LAC/USC for emergency services.

27 13. Respondent's inaction caused an unnecessary delay in the diagnosis and treatment of
28 Patient D.S.'s hip fracture.

1 14. As a result of the above incident, an Adverse Action consisting of a 2-step salary
2 reduction was filed against Respondent for violations of Government Code sections 19572(d) and
3 (f) (inexcusable neglect of duty and other failure of good behavior either during or outside of duty
4 hours that is of such a nature that it causes discredit to the appointing authority or the person's
5 employment. The Adverse Action also included a July 11, 2007, incident where Respondent left
6 a patient unsupervised on two occasions).

7 SECOND CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct – Gross Negligence and/or Incompetence)

9 15. Respondent is subject to disciplinary action under section 2761(a)(1) and Regulations
10 1442 and 1443 in that she was grossly negligent and/or incompetent. The circumstances are as
11 follows:

12 16. At approximately 1:20 p.m., on or about April 14, 2008, while employed as a
13 Registered Nurse for the Department of Mental Health, Metropolitan State Hospital, the Hospital
14 Police Department received a call requesting assistance in Unit 412. The officers observed a
15 patient crying and demanding to be sent to LA County/USC Hospital. The patient had a large
16 open wound in her abdomen area. A second female patient was in the restroom screaming and
17 banging the walls for attention.

18 17. At that time, Respondent was in Unit 412's nurse's station. When the officers
19 approached Respondent and asked for her assistance, she refused to exit and assist the officers
20 and the injured patient. Approximately 15 to 25 patients then entered the unit, and became
21 agitated when they saw the officers. A patient attacked one of the officers.

22 18. The officers radioed for assistance and to report Respondent's refusal to assist. When
23 Respondent was interviewed about the incident, she falsely stated that the officers never asked for
24 her assistance.

25 19. As a result of this incident, an Adverse Action recommending that Respondent be
26 dismissed from her Registered Nurse position was filed for violations of Government Code
27 sections (c), (d), (f), (o) and (t) (inefficiency, inexcusable neglect of duty, dishonesty, willful
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1 disobedience, and other failure of good behavior either during or outside of duty hours that is of
2 such a nature that it causes discredit to the appointing authority or the person's employment).

3 **PRAYER**

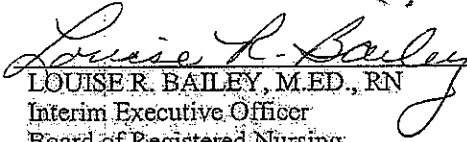
4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse License Number 424649, issued to Erlinda
7 Atienza Abrantes;

8 2. Ordering Erlinda Atienza Abrantes to pay the Board of Registered Nursing the
9 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
10 Professions Code section 125.3; and

11 3. Taking such other and further action as deemed necessary and proper.

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14 DATED: 5/28/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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